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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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LOUIS FRANCK and LI ZHEN FENG,  
*Individually and on Behalf of All Others*  
*Similarly Situated,*

Plaintiffs,

-v-

NEW YORK HEALTH CARE, INC.,  
MURRY ENGLARD, and GLEN PERSAUD,

Defendants.  
-----X

**ORDER**

21-CV-4955 (GHW) (JLC)

**JAMES L. COTT, United States Magistrate Judge.**

Louis Franck and Li Zhen Feng (“Plaintiffs”), individually and on behalf of all others similarly situated, bring this action for violations of the Fair Labor Standards Act (“FLSA”) and New York Labor Law (“NYLL”) against New York Health Care, Inc. (“NYHC”), Murry Englard, and Glen Persaud (collectively, “Defendants”). Plaintiffs moved for conditional certification of an FLSA collective action on December 21, 2021. Dkt. No. 61. Specifically, they request an order from the Court:

1. Granting conditional certification of this collective action pursuant to Section 216(b) of all persons who worked as home care workers at NYHC between June 4, 2018 and the date of final judgment in this matter;
2. Directing Defendants to produce the full names, last-known addresses, email addresses, home and cell phone numbers, job position(s), languages

spoken, present or last known place of employment, and dates of employment for all home care workers employed by NYHC during the last six years;

3. Approving Plaintiffs' proposed notice plan;
4. Directing NYHC to pay all notice costs; and
5. Tolling the FLSA statute of limitations for potential opt-in plaintiffs from September 21, 2021 until ten days after the expiration of the notice and opt-in period.

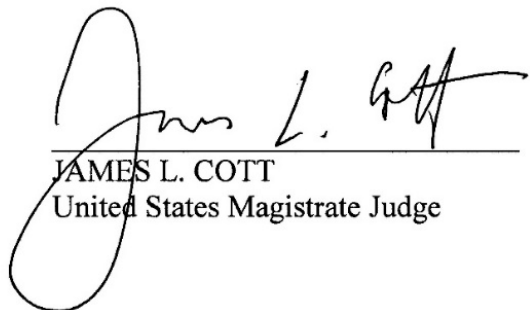
Dkt. No. 62. Defendants filed opposition papers on February 22, 2022. Dkt. No. 86. On April 8, 2022, Plaintiffs filed reply papers. Dkt. Nos. 112, 113.

By Report & Recommendation dated September 21, 2022, I have recommended that Defendants' motion for judgment on the pleadings be granted, and Plaintiffs' First Amended Complaint be dismissed, with leave to amend certain claims. Given this recommendation, the Court hereby denies the motion for conditional certification and the related relief requested without prejudice. The motion for conditional certification may be renewed if the case runs its course in a manner that would justify such relief.

The Clerk is respectfully requested to mark Dkt. No. 61 as "denied without prejudice."

**SO ORDERED.**

Dated: September 21, 2022  
New York, New York



JAMES L. COTT  
United States Magistrate Judge